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|-------------------------------|-----------------------------|---------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b>      | <b>Applicant(s)</b> |  |
|                               | 09/776,599                  | BUECHLER ET AL.     |  |
|                               | Examiner<br>Jon D. Epperson | Art Unit<br>1639    |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 7/18/05.
2.  The allowed claim(s) is/are 30-44 and 46 (renumbered 1-16).
3.  The drawings filed on 01 February 2001 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 7/13/05.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.



ANDREW WANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600  
Part of Paper No./Mail Date 20050726

## **DETAILED ACTION**

### ***Status of the Application***

1. Receipt is acknowledged of the July 29, 2005 Supplemental Response.

### ***Status of the Claims***

2. Claims 30-44 and 46 are pending. Applicants amended claim 42. Therefore, claims 30-44 and 46 are still pending. The Examiner hereby withdraws the previous species election requirement. Therefore, all claims (i.e., 30-44 and 46) are examined on the merits.

### ***Reasons for Allowance***

3. Applicants' terminal disclaimer submitted 7/18/05 overcomes the outstanding Double Patenting rejection. The Examiner finds persuasive Applicants' arguments with regard to the two outstanding Sounik et al. rejections under 35 U.S.C. 103(a). The prior art of record does not teach or fairly suggest motivation for "both" compounds as recited in claim 30. Although the second compound is fairly taught by the Lazzouni et al. publication, the first compound is not fairly taught or suggested as required by the claims. In addition, Applicants also set forth evidence of unexpected results (e.g., see Applicants' 6/3/05 response, pages 13-14) that would otherwise rebut a prima facie case of obviousness. Therefore, generic claim 30 and all dependent claims are allowed.

### ***Salutation***

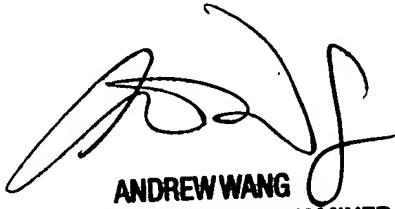
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon D Epperson whose telephone number is (571) 272-0808. The examiner can normally be reached Monday-Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jon D. Epperson, Ph.D.  
July 26, 2005



ANDREW WANG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600